IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23861 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAFATLAL GORDHANDAS PATEL - Petitioner(s)

Versus

LAXMIKANT BHAGUBHAI PATEL CHAIRMAN & 2 - Respondent(s)

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Appearance :

MR PJ MEHTA for Petitioner(s) : 1,
None for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 31/01/2006

ORAL JUDGMENT

1. The petitioner has filed this petition under Article 226 of the Constitution of India

praying for the direction to the respondents No.1 and 2 to deposit the remaining amount of back wages to the tune of Rs.1,64,057.34 ps before the Registrar of this Court. The petitioner has also prayed for the direction to the respondents No.1 and 2 to release the amount of gratuity, as per the award of the Gratuity authority awarding the amount of Rs.62,804/- plus interest of Rs.25,121/- calculated at the rate of 10% as per the direction given by the controlling authority.

2. Before filing of this petition, the petitioner has filed Special Civil Application No.1706 of 2005, wherein also the petitioner has prayed for the direction to release the amount of bonus, gratuity as well as leave wages, as per the order passed by the Labour Court and Gratuity authority. The petitioner has also prayed for the direction in that

matter to the respondent No.2 to deposit the amount of back wages before the Registrar of this Court, as per the order passed by the Labour Court in Recovery Application No.2678 of 2000.

3. The said Special Civil Application was heard and disposed of by this Court (Coram: Akil Kureshi, J.) on 7.10.2005 and directions were issued in the said petition to the effect that from the amount deposited by the employer, the workman will be paid a sum of Rs.12,741/- towards bonus and Rs.25,781/- towards earned leave. The Registry was directed to release the same in favour of the workman by an account payee cheque. With the aforesaid directions the said petition was disposed off.

4. From the above facts, it appears that the claims which are made in the present petition

were also made in the earlier petition and Court has restricted the relief to the aforesaid extent only. Therefore, it is not open for the petitioner to raise same dispute in the present petition. If the petitioner is aggrieved by the earlier order of this Court passed in Special Civil Application No.1706/2005 with Special Civil Application No.14750/2005 the petitioner should have challenged it before the Division Bench by way of filing the LPA or in the alternative if the petitioner's claim is not specifically dealt with in the earlier order, the petitioner should have moved Misc. Application seeking appropriate clarification in the matter. In any case, the present petition is not maintainable, as it is barred by principle of res judicata.

5. Subject to the aforesaid observations the

present petition is accordingly disposed off.

kks (K. A. PUJ, J.)